

**RULES
OF
THE BOARD OF EXAMINERS IN PSYCHOLOGY**

**CHAPTER 1180-1
GENERAL RULES GOVERNING THE PRACTICE OF PSYCHOLOGISTS, SENIOR
PSYCHOLOGICAL EXAMINERS, PSYCHOLOGICAL EXAMINERS, AND CERTIFIED
PSYCHOLOGICAL ASSISTANTS**

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1180-1-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) ABPP - The American Board of Professional Psychology.
- (2) Advertising - Informational communication to the public in any manner to attract public attention to the practice of Psychology. This includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign or device issued to a person; in a sign or marking in or on any building; or, in any newspaper, magazine, directory or other printed matter. Advertising also includes business solicitations communicated by individuals or radio, video or television broadcasting, or other means designed to secure public attention.
- (3) APA - American Psychological Association.
- (4) APPIC - Association of Psychology Postdoctoral and Internship Centers.
- (5) Applicant - Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.
- (6) ASPPB - Association of State and Provincial Psychology Boards.
- (7) Board - Tennessee Board of Examiners in Psychology.
- (8) Board Designee - Any person who has received a written delegation of authority from the Board to perform Board functions subject to review and ratification by the full Board where provided by the rules.
- (9) Certificate - A document issued by the Board to an applicant who has successfully completed the certification process. The certificate takes the form of an "artistically designed" certificate as well as other versions bearing an expiration date.
- (10) Certificate Holder - Any person who holds a current, lawfully issued certificate to practice as a Certified Psychological Assistant.
- (11) Certified Psychological Assistant - A person who holds himself out to be a Certified Psychological Assistant and/or renders to individuals or to the public for remuneration any service involving the appli-

(Rule 1180-1-.01, continued)

cation of recognized principles, methods, and procedures of the science and profession of psychology and only under the direct employment and supervision of either the Psychologist employing the Certified Psychological Assistant or the employing community mental health center or state governmental agency.

- (12) Closed Files - Incomplete or denied files rendered inactive by administrative action.
- (13) CNRHSP - The Council for the National Register of Health Service Providers in Psychology.
- (14) Department - Tennessee Department of Health.
- (15) Division - Division of Health Related Boards, Tennessee Department of Health, from which the Board receives administrative support.
- (16) EPPP - The Examination for Professional Practice in Psychology.
- (17) Ethics Code, Code of Ethics or Professional Ethics - Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, December 1, 1992, as modified and adopted by the Board as Professional Ethics.
- (18) Fee - Money received as compensation in return for rendering services; also, the required application fees.
- (19) Good Moral Character - The quality of being well regarded in adherence to Professional Ethics.
- (20) Health Service Provider (HSP) - A licensee who delivers direct, preventive, assessment and therapeutic intervention services to individuals whose growth, adjustment, or functioning is actually impaired or may be at risk of impairment.
- (21) Health Related Boards ("HRB") - The Division of Health Related Boards, Tennessee Department of Health, from which the Board receives administrative support.
- (22) Internship - An organized, planned, continuous training experience in a professionally recognized program which is well announced, formal in structure, and which is designed to provide nineteen hundred (1900) hours of predoctoral training under qualified supervision in professional psychology.
- (23) License - A document issued by the Board to an applicant who has successfully completed the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.
 - (a) Temporary License - A time-limited license issued by the board to an applicant who wishes to practice and has met all other licensure requirements except successful completion of the written examination and/or the ethics and jurisprudence examination.
 - (b) Provisional License - A time-limited license issued by the board to an applicant for HSP designation who is in the process of completing the post-doctoral supervised experience.
- (24) Licensee - Any person who holds a current, lawfully issued temporary license or license to practice as a Psychologist, Senior Psychological Examiner, or Psychological Examiner.
- (25) Practicum - A supervised training experience organized by a graduate academic psychology training program for the specific purpose of applied skill development appropriate to the area of preparation.

(Rule 1180-1-.01, continued)

- (26) Psychological Examiner - A person who holds himself out to be a psychological examiner and/or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods and procedures of the science and profession of psychology.
- (27) Psychologist - A person who holds himself out to be a psychologist and/or engages in the practice of the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health.
- (28) Senior Psychological Examiner - A person who holds himself out to be a senior psychological examiner and/or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods, and procedures of the science and profession of psychology.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-11-104, 63-11-201, 63-11-202, 63-11-203, 63-11-206, 63-11-207, 63-11-208, 63-11-209, 63-11-210, 63-11-211, 63-11-212, and Public Acts of 2001, Chapter 123. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed August 29, 2000; effective November 12, 2000. Amendment filed December 11, 2000; effective February 24, 2001. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed November 9, 2005; effective January 23, 2006. However, Stay of Effective Date filed by the Board of Examiners in Psychology on January 20, 2006; new effective date March 23, 2006.

1180-1-.02 NECESSITY OF LICENSURE AND CERTIFICATION.

- (1) As one of the healing arts, the practice of psychology is restricted to those persons licensed or certified by the Board. Persons engaging in the practice of psychology without being licensed or certified are in violation of T.C.A. §§ 63-1-123 and 63-11-206.
- (2) Any person who holds himself or herself out to the public by any means, such as using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards or other instruments of professional identification, as being engaged in the practice of psychology is required to be licensed unless specifically excepted pursuant to T.C.A. §§ 63-11-205(a), (b), (c) and (d) and 63-11-206(b), (c), (d) and (g).
- (3) Any person who delivers health services to the public as a Psychologist or as a Senior Psychological Examiner, whether or not for remuneration and wherever housed, whether a university, college or laboratory setting, must be licensed with HSP designation; any Psychological Examiner delivering services to the public, whether or not for remuneration and wherever housed, must be licensed; any Certified Psychological Assistant delivering services to the public, whether or not for remuneration and wherever housed, must be certified.
- (4) Prior to the engagement of the practice of psychology in Tennessee, a person must hold a current Tennessee license, certificate, temporary license, temporary certificate, or provisional license issued pursuant to Chapter 1180-2, Chapter 1180-3, or Chapter 1180-4.
- (5) Use of Titles
 - (a) Any person who possesses a valid, unsuspended and unrevoked psychologist license issued by the Board has the right to use the title "Psychologist" and to practice psychology, as defined in T.C.A. § 63-11-203.

(Rule 1180-1-.02, continued)

- (b) Any person who possesses a valid, unsuspended and unrevoked psychological examiner or senior psychological examiner license issued by the Board has the right to use the titles “Psychological Examiner” or “Senior Psychological Examiner,” as applicable, and to practice psychology, as defined in T.C.A. § 63-11-202.
- (c) Any person who possesses a valid, unsuspended and unrevoked psychological assistant certification issued by the Board has the right to use the title “Certified Psychological Assistant” and to practice psychology under supervision as defined in Rule 1180-4-.01.
- (d) Violation of this rule regarding use of titles shall constitute unprofessional conduct and subject the licensee or certificate holder to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-11-104, 63-11-201, 63-11-202, 63-11-203, 63-11-205, 63-11-206, 63-11-207, 63-11-208, and 63-11-215. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed July 27, 2006; effective October 10, 2006.

1180-1-.03 FEES.

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| (1) | Fee Schedule: | Amount |
| (a) | Application | \$175.00 |
| (b) | Temporary License | \$100.00 |
| (c) | Provisional License | \$125.00 |
| (d) | Ethics and Jurisprudence Examination | \$200.00 |
| (e) | Ethics and Jurisprudence Re-Examination | \$100.00 |
| (f) | License | \$200.00 |
| (g) | Certificate | \$150.00 |
| (h) | License Renewal (biennial) | \$275.00 |
| (i) | Certificate Renewal (biennial) | \$150.00 |
| (j) | Late Renewal | \$100.00 |
| (k) | Endorsement Verification | \$ 25.00 |
| (l) | State Regulatory (biennial) | \$ 10.00 |
| (m) | Replacement License or Certificate | \$ 25.00 |
- (2) The fees set by the Board for obtaining and maintaining licensure or certification are defined as follows:

(Rule 1180-1-.03, continued)

- (a) Application Fee - A fee to be paid by all applicants for licensure or certification including those seeking licensure by reciprocity.
 - (b) Endorsement/Verification Fee - A non-refundable fee to be paid for each certificate of fitness, endorsement or verification of an individual's record for any purpose.
 - (c) Late Renewal Fee - A non-refundable fee to be paid when an individual fails to timely renew a license or a certificate.
 - (d) License or Certificate Fee - A fee to be paid at the time of application prior to the issuance of the "artistically designed" initial license or certificate.
 - (e) License or Certificate Renewal Fee - A non-refundable fee to be paid biennially by all licensees or certificate holders to maintain the license or certificate. This fee also applies to individuals who reactivate a license or certificate that has been retired.
 - (f) Ethics and Jurisprudence Examination Fee – A non-refundable fee to be paid when applying for initial licensure.
 - (g) Ethics and Jurisprudence Re-Examination Fee – A non-refundable fee to be paid each time an applicant retakes the Board's Ethics and Jurisprudence Examination.
 - (h) Provisional License Fee - A fee to be paid by all individuals who are requesting a provisional license at the time of application.
 - (i) Replacement License or Certificate Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed license or certificate.
 - (j) State Regulatory Fee - A fee to be paid by all individuals at the time of application and with all renewal applications.
 - (k) Temporary License Fee - A fee to be paid by all individuals at the time of application who are requesting a temporary license.
- (3) Fees may be paid in the following manner:
- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Board of Examiners in Psychology.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.
- (4) Fees may be refunded upon withdrawal of an application or excused absence from an examination. Requests for refunds must be made in writing to the Board administrator and accompanied by a copy of the cancelled check or other documentation of payment. The application and state regulatory fees shall not be refunded.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, and 63-11-209. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed November 9, 2005; effective January 23, 2006. However, Stay of Effective Date filed by the Board of Examiners in Psychology on January 20, 2006; new effective date March 23, 2006. Amendment filed March 23, 2007; effective June 6, 2007.

1180-1-.04 APPLICATION REVIEW, APPROVAL, DENIAL AND INTERVIEWS.

- (1) Any applicant for licensure or certification shall request an application packet from the Board's administrative office.
- (2) Review of all submitted applications to determine application file completeness may be delegated to the Board's designee, provided that approval of all applications is made and ratified by the Board.
- (3) For applicants applying to sit for the written examination, a deficiency letter will be mailed to the applicant if the application is incomplete when received in the Board's administrative office. The requested information must be received in the Board's administrative office on or before the sixtieth (60th) day prior to the written examination. All other applicants must complete their application files within sixty (60) days of receipt of the deficiency notice.
 - (a) Deficiency notification shall be sent certified mail, return receipt requested, from the board's administrative office.
 - (b) If the requested information is not received on or before the sixtieth (60th) day prior to the written examination or within sixty (60) days of receipt of the deficiency notice, the application file shall become inactive and the applicant so notified. No further Board action will take place until the application is completed pursuant to the rules governing the application process. The Board may, at its discretion, keep a file open past this deadline if special circumstances warrant.
- (4) After review and upon approval by the Board of the completed application and supporting credentials, the applicant shall be allowed to sit for the written examination. For all other applicants, the completed application and supporting documentation will be reviewed in a timely manner at regularly scheduled Board meetings following completion of the application.
- (5) If an applicant has requested one level of licensure or certification and subsequent to Board review, wishes to change that application to a different level of licensure or certification and/or designation of HSP, a new application and fee must be submitted. An applicant may not simultaneously have an active application file for two (2) different levels of licensure or certification. If, subsequent to the initial application, an applicant initiates a new application for a different level of licensure or certification, the original application file will be closed.
- (6) A temporary authorization to practice, pursuant to T.C.A. 63-1-142, may be issued to an applicant following an initial determination by a Board member or designee that the completed file evidences that the applicant has met all of the requirements for licensure, certification, renewal or reinstatement. The temporary authorization is valid until the Board reviews and makes a final decision on the application, and is effective for a period of no more than six months.
- (7) If a completed application has been denied by the Board the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board's administrative office by certified mail, return receipt requested. Specific reasons for denial will be stated, including the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall contain a statement of the applicant's right to appeal the denial and the procedure necessary to perfect an appeal pursuant to the Tennessee Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
 - (c) An applicant has a right to appeal only if the licensure or certification denial is based on subjective or discretionary criteria.

(Rule 1180-1-.04, continued)

- (d) An applicant may be granted a contested case hearing if licensure or certification denial is based on an objective, clearly defined criteria only if, after review and attempted resolution by the Board's administrative staff, the licensure or certification application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the Board administrator within thirty (30) days of the receipt of the notice of denial from the Board.
- (8) The Board or its designee may delay a decision on eligibility to take the examination for any applicant from whom the Board wishes additional information for the purpose of clarifying information previously submitted. Any request for additional information shall be in writing and sent by certified mail, return receipt requested. The applicant's response must be made and received at the Board's Administrative Office within sixty (60) days from the date of receipt of the notice by the applicant or the application will be closed.
- (9) If a license or certificate has been issued in error, the Board will give written notice by certified mail of its intent to revoke the license or certificate. The notice will allow the applicant the opportunity to meet the requirements of licensure or certification within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license or certificate, the applicant shall have the right to proceed according to paragraph (7) of this rule.
- (10) Abandonment of application.
 - (a) An application shall be deemed abandoned and closed if it has not been completed by the applicant within sixty (60) days after it was initially submitted and reviewed.
 - (b) A determination of abandonment and closure of an application file must be ratified by the board.
 - (c) An application submitted subsequent to abandonment and closure of a prior application shall be treated as a new application.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-11-104, 63-11-201, 63-11-206, 63-11-207, 63-11-208, 63-11-215, 63-11-216, and 63-11-217. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendments filed October 18, 2004; effective January 1, 2005.

1180-1-.05 RENEWAL OF LICENSE OR CERTIFICATION.

- (1) Renewal application.
 - (a) The due date for license renewal is the expiration date indicated on the licensee's initial certificate of registration or renewal certificate.
 - (b) Methods of Renewal - Licensee and certificate holders may accomplish renewal by one (1) of the following methods:
 - 1. Internet Renewals - Individuals may apply for renewal via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - Licensee and certificate holders who have not renewed their authorization online via the Internet will have a renewal application form mailed to them at the last

(Rule 1180-1-.05, continued)

address provided by them to the Board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal.

- (c) A license issued pursuant to these rules is renewable by the expiration date. To be eligible for renewal the licensee must submit the following to the Division on or before the expiration date of the license:
 - 1. A completed and signed renewal application form.
 - 2. The renewal and state regulatory fees as provided in rule 1180-1-.03.
 - (d) Licensees or certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses or certificates processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License or Certificate.
- (a) Licenses or certificates that have expired may be reinstated upon meeting the following conditions:
 - 1. Payment of all past due renewal fees;
 - 2. Payment of the late renewal fee provided in rule 1180-1-.03;
 - 3. Compliance with continuing education requirements in rule 1180-1-.08; and
 - 4. If the license has been expired for more than five (5) years, successfully pass the jurisprudence and ethics examination, pay the jurisprudence and ethics examination exam fee as provided in rule 1180-1-.03, and obtain six (6) months of supervision.
 - (b) Renewal issuance decisions pursuant to this rule may be made administratively, upon review by the Board Administrator.
 - (c) Anyone submitting a signed renewal form or letter which is found to be false may be subjected to disciplinary action as provided in T.C.A. § 63-11-215 and rule 1180-1-.10.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-11-104, 63-11-201, 63-11-206, 63-11-207, 63-11-208, 63-11-209, 63-11-210, 63-11-215, and 63-11-218. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed May 15, 2003; effective July 29, 2003. Amendment filed November 9, 2005; effective January 23, 2006. However, Stay of Effective Date filed by the Board of Examiners in Psychology on January 20, 2006; new effective date March 23, 2006.

1180-1-.06 PATIENT RECORDS.

- (1) Purposes – The purposes of these rules are:
 - (a) To recognize that patient records are an integral part of the practice of psychologists, senior psychological examiners, and psychological examiners as defined in T.C.A. §§ 63-11-202 and 63-11-203.

(Rule 1180-1-.06, continued)

- (b) To give psychologists, senior psychological examiners and psychological examiners, their professional and non-professional staff, and the public direction about the content, transfer, retention, and destruction of those records.
- (2) Conflicts – As to patient records, these rules should be read in conjunction with the provisions of T.C.A. §§ 63-2-101 and 63-2-102, and are not intended to conflict with those statutes in any way. Those statutes, along with these rules, govern the subjects that they cover in the absence of other controlling state or federal statutes or rules to the contrary.
- (3) Applicability – These rules regarding patient records shall apply only to those records, the information for which was obtained by psychologists, senior psychological examiners and psychological examiners or their professionally certified employees, or those over whom they exercise supervision, for purposes of services provided in any clinical setting other than those provided in a hospital as defined by T.C.A. § 68-11-302 (4), a hospital emergency room or hospital outpatient facility.
- (4) Patient Records –
 - (a) Duty to Create and Maintain Patient Records – As a component of the standard of care and of minimal competency a psychologist, senior psychological examiner or psychological examiner must cause to be created and cause to be maintained a record for every patient for whom he or she, and/or any of his or her professionally certified supervisees, performs services or provides professional consultation.
 - (b) Notice – Anywhere in these rules where notice is required to be given to patients of any psychologist, senior psychological examiner or psychological examiner, that notice shall be required to be issued within thirty (30) days of the date of the event that triggers the notice requirement, and may be accomplished by public notice including, but not limited to:
 - 1. publication of the required information in a newspaper of general circulation in the area in which the licensee practices; or
 - 2. posting of the required information at the practice location.
 - (c) Content – All patient records, or summaries thereof, produced in the course of the practice of psychology for all patients shall include all information and documentation listed in T.C.A. § 63-2-101 (c) (2) and such additional information that is necessary to insure that a subsequent reviewing or treating psychologist, senior psychological examiner or psychological examiner can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.
 - 1. Patient records include, but are not limited to:
 - (i) modalities and frequencies of treatment furnished
 - (ii) results of clinical tests
 - (iii) counseling session start and stop times
 - (iv) summaries of:
 - (I) diagnosis
 - (II) functional status

(Rule 1180-1-.06, continued)

- (III) treatment plan
 - (IV) symptoms
 - (V) prognosis
 - (VI) progress to date
- 2. Not included in patient records are:
 - (i) test data – raw and scaled scores, client/patient responses to test questions or stimuli, and notes and recordings concerning client/patient statements and behavior during an examination.
 - (ii) test materials – manuals, instruments, protocols, and test questions or stimuli.
 - (iii) psychotherapy notes – notes recorded (in any medium) by a psychologist, senior psychological examiner or psychological examiner, who is designated as a health service provider as defined in Rule 1180-1-.01, that document or analyze the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's patient record.
- (d) Transfer -
 - 1. Records of Psychologists, Senior Psychological Examiners and Psychological Examiners Upon Death or Retirement - When a psychologist, senior psychological examiner or psychological examiner retires or dies while in practice, patients seen by the psychologist, senior psychological examiner or psychological examiner in his/her office during the immediately preceding eighteen (18) months shall be notified, as provided in subparagraph (b), by the psychologist, senior psychological examiner, psychological examiner or his/her authorized representative and be informed that upon authorization, copies of the records will be sent to the new psychologist, senior psychological examiner or psychological examiner. This notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.
 - 2. Records of Psychologists, Senior Psychological Examiners and Psychological Examiners upon Departure from a Group - The responsibility for notifying patients of a psychologist, senior psychological examiner or psychological examiner who leaves a group practice whether by death, retirement or departure shall be governed by the employment contract of the psychologist, senior psychological examiner or psychological examiner.
 - (i) Whomever is responsible for that notification must notify patients seen by the psychologist, senior psychological examiner or psychological examiner in his/her office during the immediately preceding eighteen (18) months of his/her departure, except that this notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.
 - (ii) Except where otherwise governed by provisions of the employment contract, those patients shall also be notified of the practitioner's new address and offered the opportunity to have copies of their records forwarded to the departing psychologist, senior psychological examiner or psychological examiner at his or her new prac-

(Rule 1180-1-.06, continued)

tice. Provided however, a group shall not withhold the records of any patient who has authorized their transfer to the departing psychologist, senior psychological examiner or psychological examiner or any other practitioner.

- (iii) The choice of practitioner in every case should be left to the patient, and the patient should be informed that upon authorization his/her records will be sent to the psychologist, senior psychological examiner or psychological examiner of the patient's choice.
- 3. Sale of a Psychology Practice - A psychologist, senior psychological examiner or psychological examiner or the estate of a deceased psychologist, senior psychological examiner or psychological examiner may sell the elements that comprise his/her practice, one of which is its goodwill, i.e., the opportunity to take over the patients of the seller by purchasing the patient records. Therefore, the transfer of records of patients is subject to the following:
 - (i) The psychologist, senior psychological examiner or psychological examiner (or the estate) must ensure that all patient records are transferred to another psychologist, senior psychological examiner or psychological examiner or entity that is held to the same standards of confidentiality as provided in these rules.
 - (ii) Patients seen by the psychologist, senior psychological examiner or psychological examiner in his/her office during the immediately preceding eighteen (18) months shall be notified that the psychologist, senior psychological examiner or psychological examiner (or the estate) is transferring the practice to another practitioner or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another practitioner or entity of their choice. This notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.
- 4. Abandonment of Records – For purposes of this section of the rules death of a psychologist, senior psychological examiner or psychological examiner shall not be considered as abandonment.
 - (i) It shall be a prima facie violation of T.C.A. § 63-11-215 (b) (1) for a psychologist, senior psychological examiner or psychological examiner to abandon his practice without making provision for the security, or transfer, or otherwise establish a secure method of patient access to their records.
 - (ii) Upon notification that a psychologist, senior psychological examiner or psychological examiner in a practice has abandoned his practice and not made provision for the security, or transfer, or otherwise established a secure method of patient access to their records patients should take all reasonable steps to obtain their records by whatever lawful means available and should immediately seek the services of another psychologist, senior psychological examiner or psychological examiner.
- (e) Retention of Patient Records – Patient records shall be retained for a period of not less than seven (7) years from the last clinical contact between the patient and the psychologist, senior psychological examiner or psychological examiner, or their professionally certified supervisees except for the following:
 - 1. Records for incompetent patients shall be retained indefinitely.

(Rule 1180-1-.06, continued)

2. Records of minors shall be retained for a period of not less than one (1) year after the minor reaches the age of majority or seven (7) years from the date of the last clinical contact with the patient, whichever is longer.
 3. Notwithstanding the foregoing, no patient record involving services which are currently under dispute shall be destroyed until the dispute is resolved.
- (f) Destruction of Patient Records -
1. No patient record shall be singled out for destruction other than in accordance with established office operating procedures.
 2. Records shall be destroyed only in the ordinary course of business according to established office operating procedures that are consistent with these rules.
 3. Records may be destroyed by burning, shredding, or other effective methods in keeping with the confidential nature of the records.
 4. When records are destroyed, the time, date and circumstances of the destruction shall be recorded and maintained for future reference.
- (5) Violations – Violation of any provision of these rules is grounds for disciplinary action pursuant to T.C.A. §§ 63-11-215 (b) (1), and/or (2).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-11-104, 63-11-201, 63-11-202, 63-11-203, 63-11-213, and 63-11-215. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Repeal and new rule filed March 21, 2005; effective June 4, 2005.

1180-1-.07 RETIREMENT AND REACTIVATION OF LICENSE OR CERTIFICATE.

- (1) A person who holds a current license or certificate and does not intend to practice as a licensed Psychologist, Senior Psychological Examiner, Psychological Examiner, or Certified Psychological Assistant may apply to convert an active license or certificate to retired status. An individual who holds a retired license or certificate is not required to pay the renewal fee.
- (2) A licensee may apply for retired status by filing a completed affidavit of retirement form and any required documentation with the Board's administrative office.
- (3) A person whose license has been retired and who has not practiced for up to two (2) years, or a person whose Tennessee license has been retired and who has been licensed in good standing and in continuous practice in another state, may re-enter active status provided there are no criminal or practice act violations which would prohibit initial licensure, by submitting to the Board administrative office a written request for licensure reactivation, the license renewal fee, the state regulatory fee and the late renewal fee.
- (4) A person whose license has been retired and who has not practiced for two years up to five (5) years may re-enter active status provided there are no criminal or practice act violations which would prohibit initial licensure, by submitting to the Board administrative office a written request for licensure reactivation, the license renewal fee, the state regulatory fee, the late renewal fee, and proof of successful completion of forty (40) hours of continuing education as provided in rule 1180-1-.08.

(Rule 1180-1-.07, continued)

- (5) A person whose license or certificate has been retired and who has not practiced for over five (5) years may re-enter active status provided there are no criminal or practice act violations which would prohibit initial licensure or certification, by submitting to the Board administrative office a written request for licensure or certification reactivation, the license or certificate renewal fee, the state regulatory fee, the late renewal fee, proof of successful completion of forty (40) hours of continuing education as provided in rule 1180-1-.08, and by passing the jurisprudence and ethics examination if required, paying the jurisprudence and ethics examination exam fee as provided in rule 1180-1-.03, and obtaining six (6) months of supervision.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-111, 63-11-104, 63-11-201, 63-11-206, 63-11-207, 63-11-208, 63-11-209, 63-11-210, and 63-11-218. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed November 9, 2005; effective January 23, 2006. However, Stay of Effective Date filed by the Board of Examiners in Psychology on January 20, 2006; new effective date March 23, 2006.

1180-1-.08 CONTINUING EDUCATION.

- (1) Hours required for Psychologists, Senior Psychological Examiners, and Psychological Examiners:
 - (a) Certified Psychological Assistants are required to pursue continuing education activities as directed by the supervising psychologist, as provided in Rule 1180-4-.01 (4) (f).
 - (b) Psychologists, Senior Psychological Examiners, and Psychological Examiners are required to obtain forty (40) hours of continuing education (CE) credit every two (2) years. This CE is to be acquired in the two (2) calendar years (January 1 - December 31) prior to the licensure renewal year.
 - (c) Nine (9) CE hours of the forty (40) hours required in subparagraph (b) must be received from a Type I CE program as provided by this rule.
 - (d) Nine (9) CE hours of the forty (40) hours required in subparagraph (b) must be received from Type I or Type II CE programs as provided by this rule.
 - (e) Twenty-two (22) CE hours of the forty (40) hours required in subparagraph (b) may be received from Type I, II, or III programs as provided by this rule. Three (3) hours of the twenty-two (22) hours required in this subparagraph shall pertain to:
 1. Tennessee Code Annotated, Title 63, Chapter 11; and
 2. Official Compilation, Rules and Regulations of the State of Tennessee, Chapters 1180-1, 1180-2, 1180-3, and 1180-4; and
 3. The version of the "Ethical Standards" which are part of the "Ethical Principles of Psychologists and Code of Conduct" published by the American Psychological Association (A.P.A.), and approved by the A.P.A.'s Council of Representatives on August 21, 2002 to become effective on June 1, 2003.
 - (f) Experiences unacceptable as continuing education include, but are not limited to, administrative activities, psychotherapy, personal growth or enrichment.
- (2) Type I continuing education
 - (a) Type I continuing education is offered by APA-approved providers of educational programs.

(Rule 1180-1-.08, continued)

- (b) Type I CE learning activities and related skills and knowledge are postdoctoral in nature.
 - (c) Type I CE includes formal learning objectives and evaluation of learning activities.
 - (d) Type I CE is primarily psychological in nature or is relevant to the science and practice of psychology.
 - (e) Type I CE offerings must have a pre-assigned number of CE credit hours and provide documentation indicating the course was APA-approved.
- (3) Type II continuing education
 - (a) Type II CE is primarily psychological in nature or is relevant to the science and practice of psychology.
 - (b) Type II CE offerings must provide documentation of attendance and must have a pre-assigned number of CE credit hours under the auspices of any of the following:
 - 1. A regional psychological association
 - 2. A state psychological association
 - 3. Any recognized and relevant credentialing national, regional or state professional body
 - 4. An institution housing an APA-approved internship program.
 - 5. A nationally recognized accredited college or university with a health-related professional training program.
 - 6. Graduate courses in an APA-approved graduate psychology program. (To be assigned fifteen [15] Type II CE units per semester hour)
 - 7. Passing the ABPP exam. (To be assigned twenty [20] hours of Type II CE credit)
- (4) Type III continuing education
 - (a) Type III CE consists of learning experiences that are less structured than Type I or Type II CE and provide information that is primarily psychological in nature or is relevant to the science and practice of psychology.
 - (b) Type III CE may consist of
 - 1. clinical peer consultation groups; or
 - 2. research presentations and convention workshops that incorporate multiple, brief presentations with many different learning objectives that are less amenable to a single evaluation; or
 - 3. clinical supervision provided to students, interns, and post-doctoral fellows in accredited programs on a basis that is voluntary, uncompensated, and external to that program. A maximum of ten (10) CE hours per two (2) calendar years (January 1 - December 31) is allowed.

(Rule 1180-1-.08, continued)

(c) Sources of Type III continuing education

1. Meetings - Registration and attendance at meetings of recognized professional psychology organizations (local, state, regional, national or international). Acceptable documentation will consist of a copy of the licensee's registration receipt from the meeting. One (1) clock hour equals one (1) CE hour.
2. Teaching and presentations.
 - (i) Psychology presentations at relevant professional meetings. Acceptable documentation will consist of a copy of the program or agenda and the number of clock hours. A maximum of three (3) CE hours per presentation is allowed.
 - (ii) Preparation and delivery of guest lectures to academic or public groups. Acceptable documentation will consist of a copy of a printed agenda, program or class syllabus. A maximum of one (1) CE hour per lecture is allowed.
 - (iii) Developing and teaching an academic psychology course in an institution accredited by a regional accrediting association. For the initial development of the course and its teaching, one semester length three (3) credit hour course equals twenty-two (22) CE hours; one quarter length three (3) credit hour course equals twenty-two (22) CE hours. Acceptable documentation will consist of a letter from the department head or dean of the institution stating that the licensee taught the course for the first time and the number of credits, units or hours assigned for the course.
3. Publications
 - (i) Writing or editing a published book, or writing a book chapter or a refereed journal article shall be assigned twenty-two (22) hours of Type III CE credit. Acceptable documentation will consist of a personal log detailing the published materials.
 - (ii) Developing for teaching purposes a videotape or interactive computer program shall be assigned twenty-two (22) hours of Type III CE credit. Acceptable documentation will consist of a personal log detailing the videotape or computer program.
 - (iii) Being the principal editor of a journal or serving on the editorial board of a journal article shall be assigned twenty-two (22) hours of Type III CE credit. Acceptable documentation will consist of a personal log detailing the published materials.
 - (iv) Serving as a reviewer of a journal article shall be assigned one (1) hour of Type III CE credit per manuscript. Acceptable documentation will consist of a personal log detailing the published materials.
4. Workshops, seminars or courses - Relevant non-accredited psychology workshops, seminars or courses shall be assigned a maximum of ten (10) hours of Type III CE credit per year. Acceptable documentation will consist of certificates of attendance or registration receipts.
5. Serving as a member of the Board shall be assigned a maximum of ten (10) hours of Type III CE credit per year.

(Rule 1180-1-.08, continued)

6. Serving as a member of an oral examining committee for the Board shall be assigned one (1) hour of Type III CE credit per exam.
- (5) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats.
 - (a) Multi-Media courses may include courses utilizing:
 1. The Internet
 2. Closed circuit television
 3. Satellite broadcasts
 4. Correspondence courses
 5. Videotapes
 6. CD-ROM
 7. DVD
 8. Teleconferencing
 9. Videoconferencing
 10. Distance learning
 - (b) Licensees with disabilities or other hardships severely restricting travel away from home may petition the Board in writing to request exceptions to the manner in which they accumulate CE credits.
- (6) Documentation. Each licensee shall maintain documentation of CE hours for five (5) years and should prepare a summary report with documentation yearly. Documentation of completed CE hours must be produced for inspection and verification if requested in writing by the Board. The Board shall not maintain CE files.
- (7) Violations.
 - (a) Any licensee who falsely certifies attendance and completion of the required CE hours may be subject to disciplinary action pursuant to T.C.A. § 63-11-215.
 - (b) Any licensee who fails to obtain the required CE hours may be subject to disciplinary action pursuant to T.C.A. § 63-11-215.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-11-104, 63-11-201, 63-11-206, and 63-11-218. **Administrative History:** Original rule filed September 12, 1974; effective October 12, 1974. Repeal and new rule filed June 6, 1978; effective September 28, 1978. Repeal and new rule filed September 29, 1995; effective December 13, 1995. Repeal and new rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed March 21, 2005; effective June 4, 2005. Amendment filed November 9, 2005; effective January 23, 2006.

1180-1-.09 PROFESSIONAL ETHICS.

- (1) The Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, as its ethical standards the specific “Ethical Standards” which are part of the “Ethical Principles of Psychologists and Code of Conduct” published by the American Psychological Association (A.P.A.). The version adopted by the Board was approved by the A.P.A.’s Council of Representatives on August 21, 2002 to become effective on June 1, 2003.
- (2) In the case of a conflict the state law, rules or position statements shall govern. Violation of the Board’s ethical standards shall be grounds for disciplinary action pursuant to T.C.A. § 63-11-215 (b) (1).
- (3) A copy of the A.P.A. “Ethical Standards” which are part of the “Ethical Principles of Psychologists and Code of Conduct” may be obtained from the Order Department of the A.P.A. at 750 First Street, NE, Washington, DC 20002-4242 or by phone at (202) 336-5510, or on the Internet at <http://www.apa.org/ethics>.
- (4) Applicability of the Ethical Standards. The activity of a licensee or certificate holder subject to the Ethical Standards may be reviewed only if the activity is part of his or her work-related functions or the activity is psychological in nature. Personal activities having no connection to or effect on psychological roles are not subject to the Ethical Standards.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-11-104, 63-11-201, 63-11-204, 63-11-206, 63-11-207, 63-11-208, 63-11-213, 63-11-214, and 63-11-215. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed May 29, 2003; effective August 12, 2003.

1180-1-10 DISCIPLINARY GROUNDS, ACTIONS, CIVIL PENALTIES, SETTLEMENTS, AND SCREENING PANELS.

- (1) Grounds and authority for disciplinary actions. The Board shall have the power to deny an application for a license or certificate to any applicant. The Board shall have the authority to suspend or revoke a license or certificate, reprimand or otherwise discipline by a monetary fine any licensee or certificate holder. Formal disciplinary proceedings before the Board shall comply with the Administrative Procedures Act, T.C.A. §§ 4-5-301, *et. seq.* The grounds upon which the Board shall exercise such power include, but are not limited to, the following:
 - (a) Unprofessional, dishonorable, or unethical conduct;
 - (b) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Psychology Act or any lawful order of the Board issued pursuant thereto, or any criminal statute of the state of Tennessee;
 - (c) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as a licensee;
 - (d) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice as a licensee or certificate holder;
 - (e) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person’s ability to practice as a licensee or certificate holder;
 - (f) Willfully betraying a professional secret;
 - (g) The advertising of Psychologist, Senior Psychological Examiner, Psychological Examiner, or Certified Psychological Assistant practice in which untrue or misleading statements are made,

(Rule 1180-1-.10, continued)

- or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment, or condition;
 - (h) Willful violation of the rules promulgated by the Board to regulate advertising by practitioners who are under the jurisdiction of such Board;
 - (i) Conviction of a felony, conviction of any offense under state or federal drug laws, or conviction of any offense involving moral turpitude;
 - (j) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;
 - (k) Offering, undertaking, or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality;
 - (l) Giving, receiving, or aiding or abetting the giving or receiving of rebates, either directly or indirectly, for referrals of business or patients;
 - (m) Engaging in practice as a licensee or certificate holder under a false or assumed name, or the impersonation of another practitioner of a like, similar or different name;
 - (n) Engaging in practice as a licensee or certificate holder when mentally or physically unable to safely do so;
 - (o) Violation of the continuing education provisions of these rules;
 - (p) Violation of the scope of practice statutes T.C.A. §§ 63-11-201 through 63-11-206; or
 - (q) Disciplinary action against a person licensed, certified, registered, or permitted to practice psychology by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this subparagraph and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed or certified in this state.
- (2) Upon a finding by the Board that a Psychologist, Senior Psychological Examiner, Psychological Examiner, or Certified Psychological Assistant has violated any provision of the Tennessee Psychology Act (T.C.A. §§ 63-11-201, et seq.) or the rules promulgated pursuant thereto, the Board may take any of the following actions separately or in any combination which is deemed appropriate to the offense:
- (a) Advisory censure. This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Formal censure or reprimand. This is a written action issued for single occurrence and less severe violations. It is a formal disciplinary action.
 - (c) Probation. This is a formal disciplinary action which places a Psychologist, Senior Psychological Examiner, Psychological Examiner, or Certified Psychological Assistant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.

(Rule 1180-1-.10, continued)

- (d) License or certificate suspension. This is a formal disciplinary action which suspends the right to practice for a fixed period of time. It contemplates re-entry into practice under the license or certificate previously issued.
 - (e) Revocation for cause. This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license or certificate previously issued. The Board, in its discretion, may allow reinstatement of a revoked license or certificate upon conditions and after a period of time which it deems appropriate. No petition for reinstatement and no new application for licensure or certification from a person whose license or certificate was revoked shall be considered prior to the expiration of at least one (1) year from the date of entry of the order unless otherwise stated in the Board's revocation order.
- (3) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (4) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (4) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation

(Rule 1180-1-.10, continued)

or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petition for Order of Compliance
Board of Examiners in Psychology

| | |
|-------------------------------|-------|
| Petitioner's Name: | _____ |
| Petitioner's Mailing Address: | _____ |
| | _____ |
| | _____ |
| Petitioner's E-Mail Address: | _____ |
| Telephone Number: | _____ |
| | _____ |
| Attorney for Petitioner: | _____ |
| Attorney's Mailing Address: | _____ |
| | _____ |
| | _____ |
| Attorney's E-Mail Address: | _____ |
| Telephone Number: | _____ |

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

(Rule 1180-1-.10, continued)

3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

- (5) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

(Rule 1180-1-.10, continued)

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Examiners in Psychology

| | |
|-------------------------------|-------------------------|
| Petitioner's Name: | _____ |
| Petitioner's Mailing Address: | _____ _____ _____ |
| Petitioner's E-Mail Address: | _____ |
| Telephone Number: | _____ |
| Attorney for Petitioner: | _____ |
| Attorney's Mailing Address: | _____ _____ _____ |
| Attorney's E-Mail Address: | _____ |
| Telephone Number: | _____ |

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

(Rule 1180-1-.10, continued)

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the __ day of _____, 20____.

Petitioner's Signature

(6) Civil penalties.

(a) Purpose. The purpose of this paragraph is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(b) Schedule of civil penalties.

1. A "Type A" civil penalty may be imposed whenever the Board finds the person required to be licensed, permitted, or authorized by the Board is guilty of a willful and knowing violation of the Psychology Act or rules promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this paragraph, willfully and knowingly practicing as a Psychologist, Senior Psychological Examiner, Psychological Examiner, or Certified Psychological Assistant without a permit, license, certificate or other authorization from the Board is one of the violations of the Psychology Act for which a "Type A" civil penalty is assessable.
2. A "Type B" civil penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or authorized by the Board is guilty of a violation of the Psychology Act or rules promulgated pursuant thereto in such a manner as to impact directly on the care of patients or the public.
3. A "Type C" civil penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or authorized by the Board is guilty of a violation of the Psychology Act or rules promulgated pursuant thereto, which are neither directly detrimental to the patients or the public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of civil penalties.

1. "Type A" civil penalties shall be assessed in the amount of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000).
2. "Type B" civil penalties may be assessed in the amount of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
3. "Type C" civil penalties may be assessed in the amount of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

(Rule 1180-1-.10, continued)

- (d) Procedures for assessing civil penalties.
 - 1. The Division may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges.
 - 2. Civil penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
 - 3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
 - 4. All proceedings for the assessment of civil penalties shall be governed by the Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (7) Settlements. Any member of the Board or the Consultant is authorized to enter into settlement agreements under which a complaint against a licensee or certificate holder may be closed, subject to ratification by the Board. Such agreements may include any terms deemed appropriate including, but not limited to:
 - (a) Mandatory education program or course attendance;
 - (b) Submission of reports, records or other appropriate documentation; or
 - (c) Conditioning of the Psychologist's, Senior Psychological Examiner's, Psychological Examiner's, or Certified Psychological Assistant's activities in any manner which affects his or her practice in Tennessee.
- (8) Screening Panels - Any screening panel(s) established pursuant to T.C.A. § 63-1-138:
 - (a) Shall have concurrent authority with the Board members and any individual Psychologist designated by the Board pursuant to paragraph (5) of Rule 1180-1-.14, to do the acts enumerated in paragraph (5) of Rule 1180-1-.14 subject to the conditions contained therein.
 - 1. A screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.

(Rule 1180-1-.10, continued)

2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
- (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee or certificate holder who is the subject of an investigation with the agreement of the state, or upon agreement of both the licensee or certificate holder and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
1. Neither the Rules of Civil Procedure, the Rules of Alternative Dispute Resolution, the Rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
2. Informal hearings may be conducted without the participation of the licensee or certificate holder who is the subject of the investigation.
3. A licensee or certificate holder who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
4. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee or certificate holder; and
 - (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-122, 63-1-134, 63-1-138, 63-11-104, 63-11-201, and 63-11-215 through 63-11-217. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed August 9, 2004; effective October 23, 2004.

1180-1-.11 LICENSE OR CERTIFICATE.

- (1) Display of License or Certificate. Every person licensed by the Board shall display the license or certificate in a conspicuous place in his or her office and, whenever required, exhibit such license or certificate to the Board or its authorized representatives.
- (2) Replacement License or Certificate. A license or certificate holder whose “artistically designed” license or certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Board administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and a recent signed passport type photograph and the required replacement license or certificate fee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-109, 63-11-104, 63-11-201, and 63-11-212. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002.

1180-1-.12 CHANGE OF ADDRESS AND/OR NAME.

- (1) Change of address. Each person holding a license or certificate who has had a change of address or place of employment shall file in writing with the Board his or her current address, giving both old and new addresses. Notifications shall be received in the Board's administrative office no later than thirty (30) days after the change is effective and must reference the individual's name, profession and license or certificate number.
- (2) Change of name. An individual registered with the Board shall notify the Board in writing within thirty (30) days of a name change and will provide both the old and new names. A notice of name change must also include a copy of the legal document which implements the name change and reference the individual's profession, Board and license or certificate number.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-11-104, and 63-11-201. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002.

1180-1-.13 MANDATORY RELEASE OF PATIENT RECORDS.

- (1) Within ten (10) working days of receipt of a written request from a patient or the patient's authorized representative, an individual licensed by this Board shall provide a complete copy of the patient's records, or summary of such records which were maintained by the provider.
- (2) A licensee shall be entitled to charge reasonable costs not to exceed ten dollars (\$10.00) for reports twenty (20) pages or less in length and twenty-five cents (25¢) per page for each page copied after the first twenty (20) pages for copying and mailing patient records.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, and 63-11-104. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000.

1180-1-.14 BOARD MEETINGS, OFFICERS, CONSULTANTS, RECORDS AND DECLARATORY ORDERS. The Board is charged with the responsibility of regulating the practice of psychology in order to protect the citizens of Tennessee. The Board, by formulating and administering examinations, credentials candidates for licensure and continues this credentialing process by approving educational seminars for licensees or certificate holders in appropriate subject material, or specific educational requirements for an individual licensee or certificate holder as the result of a censure, reprimand or action taken in a formal hearing conducted or ratified by the Board.

- (1) Board meetings.
 - (a) The time, place and frequency of Board meetings shall be at the discretion of the Board, except at least one (1) meeting shall be held annually.
 - (b) Special meetings are called at the discretion of the Board chair or at the written request from two (2) members of the Board.
 - (c) All meetings of the Board shall be open to the public.
- (2) The Board shall elect from its members the following officers:

(Rule 1180-1-.14, continued)

- (a) Chair. The member who shall preside at all Board meetings, appoint committees and correspond with other Board members when appropriate.
 - (b) Vice Chair. The member whose duties will be to preside at a Board meetings in the absence or unavailability of the Chair and who along with the Board administrator shall be responsible for correspondence from the Board and executing all official documents which require the seal of the Board to be affixed.
- (3) Responsibilities of the Board include, but are not limited to:
 - (a) Adopt and revise rules as may be necessary to carry out its powers and duties.
 - (b) Adopt and/or administer examinations.
 - (c) Examine applications and deny, withhold or approve the licenses or certificates of applicants and renew licenses or certificates.
 - (d) Appoint designee(s) to assist in the performance of its duties, (i.e., examination proctors).
 - (e) Conduct hearings.
- (4) Conflict of interest. Any Board member having an immediate personal, private or financial interest in any matter pending before the Board shall disclose the fact in writing or orally at a public meeting and shall not vote upon such matter.
- (5) The Board shall select a Board consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:
 - (a) Meet with the Board attorney to review complaints received against licensees or certificate holders.
 - (b) Act in concert with the attorney to send warning letters of a non-disciplinary nature to licensees or certificate holders, where appropriate, and close complaint files determined by the consultant and the attorney not to constitute violations of the practice act.
 - (c) Recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
 - (d) Recommend whether and/or under what terms a disciplinary action may be settled. Any disciplinary matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full Board before it becomes effective.
 - (e) Undertake any other matter authorized by a majority vote of the Board.
- (6) Records and complaints.
 - (a) All requests, applications, notices, other communications and correspondence shall be directed to the Board's administrative office. Any requests or inquiries requiring a Board decision or official Board action, except documents relating to disciplinary actions or hearing requests, must be received fourteen (14) days prior to a scheduled Board meeting and will be retained in the Board's administrative office and presented to the Board at the Board meeting.

(Rule 1180-1-.14, continued)

- (b) All records of the Board, except those made confidential by law, are open for inspection and examination under the supervision of an employee of the Division at the Board's administrative office during normal business hours.
 - (c) Copies of public records shall be provided to any person upon payment of the cost of copying.
 - (d) Complaints made against a licensee or certificate holder become public information only upon the filing of a notice of charges by the Department.
 - (e) All complaints should be directed to the Investigations Section of Health Related Boards.
- (7) Declaratory orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory order petition forms can be obtained from the Board's administrative office.
- (8) Reconsiderations and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-215, and 63-11-216. **Administrative History:** Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed March 23, 2007; effective June 6, 2007.

1180-1-.15 ADVERTISING AND OTHER PUBLIC STATEMENTS.

- (1) Definition of public statements. Public statements relate to professional services, products, or publications or to the field of psychology. Public statements include but are not limited to paid or unpaid advertising, brochures, printed matter, directory listings, personal resumes or curricula vitae, interviews or comments for use in media, statements in legal proceedings, lectures and public oral presentations, and published materials.
- (2) Statements by others.
 - (a) Licensees or certificate holders who engage others to create or place public statements that promote their professional practice, products, or activities retain professional responsibility for such statements.
 - (b) In addition, licensees or certificate holders make reasonable efforts to prevent others whom they do not control (such as employers, publishers, sponsors, organizational clients and representatives of the print or broadcast media) from making deceptive statements concerning licensees' or certificate holders' practice or professional or scientific activities.
 - (c) If licensees or certificate holders learn of deceptive statements about their work made by others, licensees or certificate holders make reasonable efforts to correct such statements.
 - (d) Licensees or certificate holders do not compensate employees of press, radio, television or other communication media in return for publicity in a news item.
 - (e) A paid advertisement relating to the licensee's or certificate holder's activities must be identified as such, unless it is already apparent from the context.

(Rule 1180-1-.15, continued)

- (3) Avoidance of false or deceptive statements. Licensees or certificate holders do not make public statements that are false, deceptive, misleading or fraudulent, either because of what they state, convey, or suggest or because of what they omit, concerning their research, practice or other work activities or those of persons or organizations with which they are affiliated. As examples (and not in limitation) of this standard, licensees or certificate holders do not make false or deceptive statements concerning (1) their training, experience, or competence; (2) their academic degrees; (3) their credentials; (4) their institutional or association affiliations; (5) their services; (6) the scientific or clinical basis for, or results or degrees of success of their services; (7) their fees; or (8) their publications or research findings.
- (4) Media presentations. When licensees or certificate holders provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material or other media, they take reasonable precautions to ensure that (1) the statements are based on appropriate psychological literature and practice, (2) the statements are otherwise consistent with the Ethics Code, and (3) the recipients of the information are not encouraged to infer that a relationship has been established with them personally.
- (5) Licensees or certificate holders do not solicit testimonials from current psychotherapy clients or patients or other persons who because of their particular circumstances are vulnerable to undue influence.
- (6) In-person solicitation. Licensees or certificate holders do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential psychotherapy patients or clients or other persons who because of their particular circumstances are vulnerable to undue influence. However, this does not preclude attempting to implement appropriate collateral contacts with significant others for the purpose of benefiting an already engaged therapy patient.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-116, 63-1-120, 63-11-104, 63-11-201, 63-11-205, and 63-11-215.

Administrative History: Original rule filed August 29, 2000; effective November 12, 2000. Amendment filed June 18, 2002; effective September 1, 2002.

1180-1-.16 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice reporting requirements. The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the “Health Care Consumer Right-To-Know Act of 1998” shall be ten thousand dollars (\$10,000).
- (2) Criminal conviction reporting requirements. For purposes of the “Health Care Consumer Right-To-Know Act of 1998”, the following criminal convictions must be reported:
 - (a) Conviction of any felony.
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.

(Rule 1180-1-.16, continued)

- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-11-104, and 63-51-101, et seq., and Public Acts of 1999, Chapter 373.

Administrative History: Original rule filed August 29, 2000; effective November 12, 2000.